IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE FIRST DAY OF JULY
TWO THOUSAND AND TEN

PRESENT
THE HON'BLE MR JUSTICE V.ESWARAIAH

C.M.A.Nos.2578/2002 & 376/2007

C.M.A.No.2578/2002

Between:
Kanchanapalli Lalitha and 4 others

.....
APPELLANTS

AND
The Deputy Inspector of Police,
i/c.Police Transport Organisation, Hyderabad
and another

.....RESPONDENTS

C.M.A.No.376/2007

Between:
The Deputy Inspector of Police,
i/c.Police Transport Organisation, Hyderabad
and another

.....
APPELLANTS

AND
Kanchanapalli Lalitha and 4 others

.....RESPONDENTS

The Court made the following:

THE HON'BLE MR JUSTICE V.ESWARAIAH

C.M.A.Nos.2578/2002 & 376/2007

COMMON JUDGMENT:

These two appeals are filed against the order dated 28.01.2002 in O.P.735/1997 on the file of the Chairman, Motor Accidents Claims Tribunal-cum-II Addl.District Judge, Nalgonda. The appellants in CMA.2578/2002 are the claimants and appellants in CMA.376/2007 are the respondents in the said O.P.

2. The parties hereinafter are referred to as they are arrayed before the Tribunal below.

3. The claimants filed the said O.P.735/1997 claiming compensation of Rs.4 lakhs. The first claimant is the wife, claimants Nos.2 and 3 are the children and claimants Nos.4 and 5 are the parents of the deceased. It is stated that on 17.08.1997 at about 11 p.m. the deceased Kanchanapalli Narasimhachary, aged 28 years while returning from Nagarjunasagar to their residence at Nalgonda along with his friend B.Brahmachary on a Scooter bearing No.A.P.24-7495 and when reached Marlagaddagudem, the police Jeep bearing No.AP9P-829 belonging to the respondents came in opposite direction in high speed, rash and negligent manner and dashed against the Scooter. As a result, the deceased Narasimhachary as well as his friend Brahmachary fallen down from the Scooter and sustained severe injuries and fractures. Immediately they were shifted to the Government Hospital, Nalgonda where the deceased Narasimhachary succumbed to injuries while undergoing treatment.

4. It is stated that the accident was occurred due to rash and negligent driving of the driver of the said police Jeep. The Police, Alwal also registered a case in Cr.No.63/97 under Sec.304-A and 337 of IPC under Ex.A1 against the driver of the said Jeep. It is stated that the

deceased was hale and healthy and prior to the occurrence, he was doing goldsmith work at Natraj Jewellary Mart, Nalgonda and was earning Rs.3,600/- per month and contributing the same towards maintenance of his family. Therefore, the claimants claimed compensation of Rs.4 lakhs.

5. A counter has been filed denying all the allegations with regard to rash and negligent act on the part of the driver of the Jeep. There is no specific denial with regard to the earnings of the claimants in the counter, except stating that they are not liable to pay compensation.

6. On behalf of the claimants, the wife of the deceased was examined as PW 1, the friend of the deceased Brahmachary who was pillion driver of the Motor Cycle at the time of accident was examined as PW 2, the employer of the deceased was examined as PW 3, the Head Constable, who conducted scene of offence panchanama in the said crime was examined as PW 4 and Exs.A1 to A9 were marked. Ex.A7 is the Salary Certificate issued by PW 3.

7. On behalf of respondents RW 1 who was the driver and who drove the crime vehicle at the time of accident alone was examined. He stated that the Scooterist was only at fault. In the said accident both the persons traveling on the Scooter sustained multiple injuries and he himself shifted them to the Government Hospital, Nalgonda. In the cross examination he stated that the width of the tar road is 25 feet. He admitted that the complaint was given by another Scooterist before the police and he denied the suggestions about his guilt and rash and negligent manner of driving.

8. The Court below based on the evidence of eyewitness PW 2, coupled with Ex.A1-FIR, Ex.P5-Scene of offence panchanama along with Ex.A9-sketch, came to the conclusion that the accident was occurred due to rash and negligent driving of the driver of the police Jeep. No appeal has been filed by the respondents questioning the said

finding, and the appeal in CMA376/2007 is filed questioning the quantum of compensation awarded by the Tribunal below. The Tribunal below has taken into account the monthly income of the deceased as Rs.2,000/- and awarded total compensation of Rs.2,92,280/-. Aggrieved by the same, the claimants have filed the appeal in CMA.2578/2002 seeking enhancement of compensation.

9. The only question that arises for consideration in these two appeals is whether the compensation awarded by the Tribunal below is excessive and whether the claimants are entitled for any enhancement of compensation.

10. PW 1 who is the wife of the deceased stated that the deceased used to get a monthly salary of Rs.3,600/- per month and he was aged about 25 years and therefore, the claim of the compensation for Rs.4 lakhs is just and reasonable. She denied the suggestion that the deceased was not a goldsmith and he was not making any jewellary and that he was not maintaining the family of the claimants. She also denied the suggestion that Ex.A7 was obtained from the jewellary shop in order to claim more compensation.

11. PW 2 who was the pillion driver by the time of accident stated that the deceased and himself were working at Natraj Jewellary Mart at Nalgonda and they were being paid salary of Rs.3,600/- per month. He denied the suggestion that under his influence only the proprietor gave Ex.A7 salary certificate.

12. PW 3 who was the proprietor of the Natraj Jewellary Mart and who issued Ex.A7 stated that he was running the said jewellary shop and the deceased used to work in his shop. He stated that he was not maintaining any attendance register and no information was given to the Labour Department. He denied the suggestion that he used to pay remuneration to the deceased on piece work basis. He stated that he used to pay monthly salary only and he issued Ex.A7 to that effect. As

against the aforesaid evidence, no rebuttal evidence was adduced by the respondents to prove that the deceased was not working in the jewellary shop of PW 3 and that his salary was not Rs.3,600/- per month.

13. The Tribunal below declined to accept the genuineness of Ex.A7, however, assessed the remuneration of the deceased considering that the deceased being an artisan and making gold ornaments, his monthly salary can be considered @Rs.2,000/- per month. I am of the opinion that as per the evidence of PWs 1, 2 and 3, the genuineness or otherwise of the Ex.A7 cannot be totally ruled out. However, having regard to the facts and circumstances of the case, I am of the opinion that the deceased being a workman and admittedly he used to work in the gold shop of PW 3, it is just and proper to take into account his salary as Rs.2,700/- per month. If 1/3rd amount is deducted out of Rs.2,700/- towards contribution to the family, the monthly income of the deceased would come to Rs.1,800/- per month, and Rs.21,600/- per annum. The Court below rightly applied multiplier as 17.08 considering the age of the deceased as 28 years. When the annual income of the deceased is taken into account as Rs.21,600/- the total compensation would come to Rs.3,68,928/- (Rs.21,600/- x 17.08). The Tribunal below also granted compensation of Rs.15,000/- to the wife towards consortium, Rs.2,000/- towards funeral expenses and Rs.2,000/- for transportation and other expenses. I am of the opinion that the claimants are also entitled to compensation of Rs.15,000/- towards loss of estate. Thus, the claimants are entitled for total compensation of Rs.4,02,928/-. But as the claimants have claimed compensation of Rs.4 lakhs only, they are entitled to compensation of Rs.4 lakh along with interest at 8% p.a. only from the date of petition till realization. Out of the said total compensation, petitioners Nos.2 and 3 are entitled to Rs.65,000/- each, petitioners Nos.4 and 5 are entitled to

Rs.45,000/- each and the 1st petitioner is entitled to the balance amount of Rs.1,80,000/- along with interest accrued thereon.

14. Accordingly CMA.2578/2002 filed by the claimants is allowed and CMA.376/2007 filed by the respondents is dismissed. No order as to costs.

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V.ESWARAIAH,J

Dated: 01.07.2010
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